

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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RANI H. SAMUEL,

Plaintiff,

vs.

CITIBANK, N.A., LONG TERM  
DISABILITY PLAN, a/k/a Citigroup  
Long Term Disability Plan,

Defendant.

CIV. 07-4051

ORDER RE: MOTION FOR  
ATTORNEY FEES (DOC. 63)

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Pending is Rani Samuel's motion for attorney's fees (Doc. 63). The controlling cases are: *Martin v. Arkansas Blue Cross and Blue Shield*, 299 F.3d 966 (8<sup>th</sup> Cir. 2002); *Lawrence v. Westerhaus*, 749 F.2d 494 (8<sup>th</sup> Cir. 1984); *Seitz v. Metropolitan Life Insurance Company*, 433 F.3d 647 (8<sup>th</sup> Cir. 2006); and *Kahle v. Leonard*, 563 F.3d 736 (8<sup>th</sup> Cir. 2009).

The circumstances and motion in this case, like the circumstances and motion in *Lawrence v. Westerhaus*, are premature. Also, regarding the remand order as an order which is not a final order, see *Gerhardt v. Liberty Life Assurance Company of Boston*, — F.3d —, No. 08-2517 (8<sup>th</sup> Cir. 2009).

It is ORDERED that plaintiff's motion for attorney's fees is DENIED without prejudice.

Dated this 30th day of July, 2009.

BY THE COURT:

s/John E. Simko

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John E. Simko  
United States Magistrate Judge